

FILED
US DISTRICT COURT
DISTRICT OF ALASKA

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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

K.J., by and through his)
parents, J.J. and B.J.,)

Plaintiffs)

vs.)

ANCHORAGE SCHOOL DISTRICT,)

Defendant)

Case No. A05-276 CV (JKS)

ANSWER TO COMPLAINT

Comes now defendant, Anchorage School District, by and through its attorneys Jermain, Dunnagan & Owens, P.C., who answers the allegations and claims in plaintiffs' Complaint by responding and defending as follows:

ALLEGATIONS

1. Defendant admits that plaintiffs have exhausted the administrative remedies under the Individuals with Disabilities Education Act, 20 U.S.C. §§1400, et seq., hereinafter the "IDEA."

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2. Defendant admits that this court has jurisdiction over the claims in this action pursuant to 20 U.S.C. §1415(i)(3).

3. Defendant admits that venue is proper in this action under 28 U.S.C. §1391(b) and D. Ak. LR 3.3.

4. Defendant admits the allegations in paragraphs 4, 5, 6, 7, 10, 11 and 14 of the Complaint.

5. Defendant admits that DLC submitted a supplemental due process hearing request dated November 17, 2004, which identified 17 separate alleged violations.

6. Defendant admits that a due process hearing was held on December 15-16, 2004, before Linda Cerro, a Hearing Officer appointed by DEED, who subsequently issued an Order dated December 19, 2004 and a subsequent Decision and Order dated January 20, 2005, which awarded some of the relief requested by the plaintiffs but denied other relief.

7. Defendant admits that plaintiffs prevailed on some, but not all, of the claims presented to and decided by the Hearing Officer.

8. Defendant admits that plaintiffs have requested payment of full attorney's fees but it has offered to pay only a portion of the attorney's fees based on the parents' partial success, an appropriate number of hours and a reasonable hourly rate.

9. All other facts alleged by plaintiffs in the Complaint that are not expressly admitted by defendant in this Answer are denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs were only partially successful on the issues raised in their due process hearing complaint.

2. DLC is established under federal law and is federally funded to provide the legal services it provided for plaintiffs in this matter without cost to plaintiffs and plaintiffs have not been charged nor are they expected to pay any attorney's fees to DLC for such legal services.

3. The hours in plaintiffs' request include hours that are unnecessarily duplicative.

4. The time spent and legal services furnished were excessive considering the nature of the matter and issues raised.

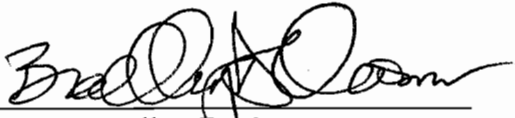
5. The hourly rate claimed by counsel for the plaintiffs is substantially higher than the hourly rate recently claimed in a similar matter, which defendant paid.

Defendant reserves the right to assert other affirmative defenses that may be disclosed through the process of disclosure and discovery under the FRCP.

Wherefore, defendant respectfully requests this court to enter a judgment in this matter denying the relief requested by plaintiffs and limiting or reducing the amount of attorney's fees requested consistent with the provisions of IDEA and court decisions interpreting and applying that law.

Dated in Anchorage Alaska this 15th day of December 2005.

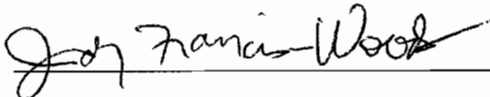
JERMAIN, DUNNAGAN & OWENS, P.C.


By: Bradley D. Owens
Alaska Bar #7610122

CERTIFICATE OF SERVICE

I hereby certify that the above document
was served on the 15th day of December 2005,
via ~~first class mail, prepaid~~, on:
HAND DELIVERY

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